

Equipment Rental Agreement

THIS EQUIPMENT RENTAL AGREEMENT dated this 3rd day of April, 2017

BETWEEN

ROUSE BREIHAN INC OF Box 420, Buffalo, NY 14226
(the "Owner")

OF THE FIRST PART

-and-

TONAWANDA COKE CORPORATION OF Box 5007, Tonawanda, NY 14151
(the "Renter")

OF THE SECOND PART

(the Owner and Renter are collectively the "Parties")

IN CONSIDERATION of the mutual covenants and promises in this Agreement, the sufficiency of which the Parties acknowledge, the Owner rents the Equipment to the Renter, and the Renter rents the Equipment from the Owner on the following terms:

Definitions

1. The following definitions are used but not otherwise defined in this Agreement:
 - a. "Casualty Value" means the market value of the Equipment at the end of the Term or when in relation to a Total Loss. The Casualty Value may be less than but will not be more than the original purchase price of the Equipment.
 - b. "Equipment" means USED AS-IS 2006 TEREX FINLAY 663T SUPERTRAK 5 FT X 20 FT 2 DECK CRAWLER SCREENING PLANT, S/N: FKT560778, WITH A CASH VALUE OF \$63,600.00.
 - c. "Total Loss" means any loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment.

Rent

2. The Owner agrees to rent the Equipment to the Renter, and the Renter agrees to rent the Equipment from the Owner in accordance with the terms set out in this Agreement.

Term

3. The rent term commences on the 1st day of April, 2017, and will continue on a month-to-month basis (the "Term").

Rent

4. The rent will be paid in installments of \$1,175.00 each month, in arrears, beginning of the 10th day of April, 2017, and will be paid on the 10th day of each succeeding month throughout the Term (the "Rent").

Defaults

5. If Renter fails to perform or fulfill any obligation under this Agreement, Renter shall be in default of this Agreement. Subject to any statute, ordinance or law to the contrary, Renter shall have seven (7) days from the date of notice of default by Owner to cure the default. In the event Renter does not cure a default, Owner may at Owner's option:
 - a. Cure such default and the cost of such action may be added to Renter's financial obligations under this Agreement; or
 - b. Declare Renter in default of the Agreement.

If Renter shall become insolvent, cease to do business as a going concern or if a petition has been filed by or against Renter under the Bankruptcy Act or similar federal or state statute, Owner may immediately declare Renter in default of this Agreement. In the event of default, Owner may, as permitted by law, re-take possession of the Equipment. Owner may, at its option, hold Renter liable for any difference between the Rent that would have been payable under this Agreement during the balance of the unexpired term and any rent paid by any successive Renter if the Equipment is re-let minus the cost and expenses of such re-letting. In the event Owner is unable to re-let the Equipment during any remaining term of this Agreement, after default by Renter, Owner may at its option hold Renter liable for the balance of the unpaid rent under this Agreement if this Agreement had continued in force.

Possession and Surrender of Equipment

6. Renter shall be entitled to possession of the Equipment on the first day of the Rental Term. At the expiration of the Rental Term, Renter shall surrender the Equipment to Owner by delivering the Equipment to Owner or Owner's agent as it was at the commencement of the Agreement.

Delivery of Equipment

7. The Renter will, at the Renter's own expense and risk, pick-up and transport the Equipment, and shall be entitled to possession of the Equipment on the first day of the Rental Term, and will:
 - a. At the beginning of the Rental Term, shipping the Equipment to Renter's premises; and
 - b. At the end of the Rental Term, shipping the Equipment back to Owner's premises.

Use of Equipment

8. The Renter will use the Equipment in a good and careful manner and will comply with all of the manufacturer's requirements and recommendations respecting the Equipment and with any applicable law, whether local, state or federal respecting the use of the Equipment, including, but not limited to, environmental and copyright law.
9. The Renter will use the equipment for the purpose for which it was designed and not for any other purpose.
10. Unless the Renter obtains the prior written consent of the Owner, the Renter will not alter, modify or attach anything to the Equipment unless the alteration, modification or attachment is easily removable without damaging the functional capabilities or economic value of the Equipment.
11. If the Equipment is not in good repair, appearance and condition when it is returned to the Owner, the Owner may make such repairs or may cause such repairs to be made as are necessary to put the Equipment in a state of good repair, appearance and condition, normal and reasonable wear and tear excepted. The Owner will make the said repairs within a reasonable time of taking possession of the Equipment and will give the Renter written notice of and invoices for the said repairs. Then the Renter will reimburse the Owner for the actual expense of said repairs.

Condition of Equipment and Repair

12. Renter or Renter's agent has inspected the Equipment and acknowledges that the Equipment is in good and acceptable condition.

Maintenance, Damage and Loss

13. Renter will, at Renter's sole expense, keep and maintain the Equipment clean and in good working order and repair during the Rental Term. In the event there is a total loss to the Equipment, Renter shall pay to Owner the casualty value of the Equipment. Once this is satisfied in full the rental shall terminate, otherwise the obligations of this Agreement shall continue in full force and effect through the rental term.

Encumbrances, Taxes and Other Laws

14. Renter shall keep the Equipment free and clear of any liens or other encumbrances, and shall not permit any act where Owner's title or rights may be negatively affected. Renter shall be responsible for complying with and conforming to all laws and regulations relating to the possession, use or maintenance of the Equipment. Furthermore, Renter shall promptly pay all taxes, fees, licenses and governmental charges, together with any penalties or interest thereon, relating to the possession, use or maintenance of the Equipment.

Owners Representations

15. Owner represents and warrants that he/she has the right to rent the Equipment as provided in this Agreement and that Renter shall be entitled to quietly hold and possess the Equipment, and Owner will not interfere with that right as long as Renter pays the Rent in a timely manner and performs all other obligations under this Agreement.

Ownership

16. The Equipment is and shall remain the exclusive property of Owner.

Severability

17. If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.

Assignment

18. Neither this Agreement nor Renter's rights hereunder are assignable except with Owner's prior, written consent.

Binding Effect

19. The covenants and conditions contained in the Agreement shall apply to and bind the Parties and the heirs, legal representatives, successors and permitted assigns of the Parties.

Governing Law

20. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Notice

21. Any notice required or otherwise given pursuant to this Agreement shall be in writing and mailed certified return receipt requested, postage prepaid, or delivered by overnight delivery service to:

Owner:
ROUSE BREIHAN INC
PO BOX 420
BUFFALO, NY 14226

Renter:
TONAWANDA COKE CORPORATION
PO BOX 5007
TONAWANDA, NY 14151

Either party may change such addresses from time to time by providing notice as set forth above.

Entire Agreement

22. This Agreement constitutes the entire agreement between the Parties and supersedes any prior understanding or representation of any kind preceding the date of this Agreement. There are no other promises, conditions, understandings or other agreements, whether oral or written,

relating to the subject matter of this Agreement. This Agreement may be modified in writing and must be signed by both Owner and Renter.

Cumulative Rights

23. Owner's and Renter's rights under this Agreement are cumulative, and shall not be construed as exclusive of each other unless otherwise required by law.

Waiver

24. The failure of either party to enforce any provisions of this Agreement shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. The acceptance of rent by Owner does not waive Owner's right to enforce any provisions of this Agreement.

Indemnification

25. Except for damages, claims or losses due to Owner's acts or negligence, Renter, to the extent permitted by law, will indemnify and hold Owner and Owner's property, free and harmless from any liability for losses, claims, injury to or death of any person, including Renter, or for damage to property arising from Renter using and possessing the Equipment or from the acts or omissions of any person or persons, including Renter, using or possessing the Equipment with Renter's express or implied consent.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

OWNER:~



Nicole Easton


(Name)



Vice President

(Position, if applicable)

RENTER:



MICHAEL K DUNKIN

(Name)



PRESIDENT

(Position, if applicable)